(14)

HIGH COURT OF CHHATTISGARH, BILASPUR

Criminal Appeal No.674/1993

APPELLANT — Madkami Guma, S/o Kosa Muriya, Age – 17 years, R/o – Gadempara, Maruki, Thana – Gadiras (Kuwakonda) District – Bastar (M.P.) (Now C.G.)

Versus

RESPONDENT — State of M.P. (Now C.G.) through Police Station Kuwakonda, Police-District – Dantewada, District – Bastar (M.P.) (Now C.G.)

Criminal Appeal No.675/1993

APPELLANT — Madkami Ganga, S/o Joga Muriya, Age 20 years, Gram – Gadem Para Maruki, Thana – Gadiras (Kuwakonda)

Versus

RESPONDENT — State of M.P. (Now C.G.) through Police Station Kuwakonda, Police-District – Dantewada, District – Bastar (M.P.) (Now C.G.)

Appearance:

Smt. Hamida Siddique, amicus curiae in both the cases.

Shri M.P.S. Bhatia, Panel Lawyer for the State in both the cases.

ORAL JUDGMENT
(05.07.2007)

SUNIL KUMAR SINHA, J.

Heard.

Since these appeals arise out of a common judgment dated 16.2.1993 passed in Sessions Trial No.137/92 by the Second Additional Sessions Judge, Bastar, Jagdalpur, whereby, appellant – Madkami Ganga was convicted under Section 376 of the IPC and appellant – Madkami Guma was convicted under

Section 376 (2) (g) of the IPC (wrongly mentioned as 376 (1) (g) in the judgment) and both were sentenced to undergo R.I. for 7-7 years, therefore, they are being disposed of by this common judgment.

The brief facts are that on 19/2/1992, the prosecutrix namely Kunjami Kosi, alongwith her friends, had gone to celebrate some festival in village – Gadem. When they all were returning back to their village, on the way, the appellants started pelting stones on them. On this, her friends ran away from the place of occurrence, but she was caught by the appellants. The allegations are that thereafter, both the appellants committed forceful sexual intercourses against her. On the next day, there was a Village Panchayat and then, the report was lodged in Police Station – Kuwakonda. During the course of investigation, the prosecutrix was sent for medical examination. She was examined by Dr. (Ms.) Ranjana Gupta (PW-6), who found many external injuries on her person. She also found that the hymen was ruptured and the vagina was admitting one finger with pains and the victim was also complaining pains in vagina.

On trial, the appellants were found guilty of the aforesaid offences. The conviction of the appellants is based upon the testimony of the prosecutrix namely Kunjami Kosa (PW-1), supported by Sodi Kule (PW-3) as also the First Information Report (Ex.-P/1) and the version of the lady Doctor namely Ms. Ranjana Gupta (PW-6).

Smt. Siddique submits that the conviction and sentence awarded to the appellants are not in accordance with law and the same be set aside.

On the other hand, learned counsel for the State opposes these arguments and supports the judgment of conviction and order of sentence passed by the Sessions Court.

Kunjami Kosa (PW-1) has stated that when she was returning back to the village alongwith her friends, these appellants started pelting stones on them, due to which, she fell down, but her friends ran away from the place of occurrence.

She deposed that as she fell down, she was caught by the appellants – Madkami Ganga and Madkami Guma and thereafter, both committed forceful sexual intercourses against her. She also deposed the manner in which sexual intercourses were committed by both the appellants. She further deposed that when she was released, she immediately ran to her house and disclosed the story to her brother-in-law (*Jija*) and one Lakhma.

The version of the prosecutrix is supported by the evidence of Sodi Kule (PW-3), to the extent that when they were coming back alongwith the friends, the prosecutrix was caught by the appellants on the way.

Her version is further supported by the contents of the First Information Report (Ex.-P/1), in which, she had made positive allegations regarding commission of sexual intercourses against her by the appellants.

The evidence of the prosecutrix is also corroborated by the evidence of Dr. (Ms.) Ranjana Gupta, who had noticed external injuries on the person of the prosecutrix and had also noticed that the hymen of the prosecutrix was ruptured alongwith other features stated supra. She has proved her report Ex.P/3.

On the basis of evidence of the prosecutrix as also her friend namely Sodi Kule (PW-3) and the evidence of Dr. (Ms.) Ranjana Gupta, it does not appear that the Sessions Court has committed any error of law by holding the appellants guilty of the aforesaid offence.

There is no force in the arguments advanced by learned counsel for the appellants. No other ground except the above is raised.

There appears to be no infirmity in the judgment passed by the Sessions Court.

The appeals have no merit and the same are accordingly dismissed.

Sd/-
Sunil Kumar Sinha
Judge

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